

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2006-42-C - ORDER NO. 2006-469  
AUGUST 2, 2006

IN RE: Application of FRC, LLC for a Certificate of ) ORDER  
Public Convenience and Necessity to Provide )  
Intrastate Telecommunications Services as a )  
Carrier's Carrier )

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of Application of FRC, LLC ("FRC" or "the Company"), requesting a Certificate of Public Convenience and Necessity to authorize it to provide intrastate telecommunications services as a carrier's carrier. The Company's Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2005) and the rules and regulations of the Commission.

The Commission's Docketing Department instructed FRC to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the State affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of FRC and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. FRC complied with this instruction and provided the Commission with proofs of publication of the Notice of Filing. No petitions to intervene were filed.

On April 6, 2006, FRC and the Office of Regulatory Staff ("ORS") entered into a settlement agreement, which is attached hereto as Order Exhibit No. 1. A hearing was convened on June 5, 2006, at 11:30 a.m., in the Commission meeting room in Columbia, South Carolina,

before David Butler, Hearing Examiner. FRC was represented by M. John Bowen, Jr., Esquire, and Sue-Ann Gerald Shannon, Esquire. ORS was represented by Shannon Bowyer Hudson, Esquire.

Terry R. Metze, Jr., General Manager, as well as Secretary and Treasurer, of FRC, testified in support of the Application. The record reveals that FRC is a limited liability company organized under the laws of the State of South Carolina. Mr. Metze testified that FRC proposes to provide intrastate service for interLATA and intraLATA service between two points in the State of South Carolina to certificated carriers in South Carolina and proposes to offer these services throughout the State. He explained that the Company will provide point-to-point service where facilities are available for the transmission of data signals, using a combination of coaxial, fiber optics and microwave. FRC will not provide service to end-users, but only to certificated carriers within South Carolina. Moreover, FRC plans to offer its services in accordance with individual contracts negotiated with customers, and the applicable regulations, rates, charges, and other terms and conditions will be provided pursuant to the terms prescribed in the tariff.

Mr. Metze also discussed FRC's technical, financial, and managerial resources necessary for implementation of the services proposed. He stated that FRC possesses sufficient financial resources to support its operations in South Carolina, as set forth in the exhibits accompanying the Company's Application. FRC's Application and Mr. Metze's testimony are evidence that FRC's management team possesses extensive experience in the telecommunications industry. The record reflects that FRC will operate in accordance with Commission rules and regulations and, further, will provide services pursuant to the rules, regulations, rates, and other terms and conditions as set out in an approved tariff. The record further shows that the Company filed a revised proposed tariff reflecting its discussions with ORS.

Mr. Metze testified that approval of FRC's Application would serve the public interest because the Company will provide reliable service, route diversity, and competitive prices to South Carolina telecommunications carriers, thereby ultimately benefiting consumers in South Carolina. Mr. Metze, on behalf of the Company, requested a waiver so that FRC may be permitted to keep its financial books and records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA).

After full consideration of the applicable law, the Company's Application and accompanying exhibits, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. FRC is a limited liability company organized under the laws of the State of South Carolina.
2. FRC desires to provide intrastate telecommunications services as a carrier's carrier.
3. We find that FRC possesses the managerial experience and capability to operate as a carrier's carrier in South Carolina.
4. We find, based on the financial statements submitted by the Company, that FRC possesses sufficient financial resources to provide the services described in its Application.
5. We find that the issuance of a Certificate of Public Convenience and Necessity to FRC to operate as a carrier's carrier in South Carolina would be in the public

interest of the citizens of South Carolina through provisioning of reliable service, route diversity, and competitive prices to South Carolina telecommunications carriers.

6. We find that exemption from the policies that would require the Company to keep its records under the USOA is reasonable.

7. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. § 58-9-280(B)(1) (Supp. 2005).

8. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B)(2) (Supp. 2005).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 2005).

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that FRC possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that FRC will provide services that will meet the service standards of the Commission.

3. The Commission concludes that approval of FRC's Application to provide intrastate telecommunications services as a carrier's carrier within South Carolina will serve the public interest by enhancing competition in the State of South Carolina through provision

of reliable service, route diversity, and competitive prices to South Carolina telecommunications carriers.

4. The Commission concludes that the provision of telecommunications service by FRC will not adversely impact the public interest.

5. The Commission concludes that issuance of authority to provide intrastate telecommunications services as a carrier's carrier, as requested by FRC and set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

6. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to FRC to provide intrastate telecommunications services as a carrier's carrier.

7. The Commission concludes that strict compliance with policies requiring the use of USOA would cause an undue hardship and, therefore, grants an exemption so that the Company can keep its financial books and records in accordance with GAAP.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to FRC to provide intrastate telecommunications services as a carrier's carrier.

2. If it has not already done so by the date of issuance of this Order, FRC shall file a revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's rules and regulations, as well as the provisions of the FRC-ORS settlement agreement.

3. FRC shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, FRC shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp) or at ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with ORS the Intrastate Universal Service Fund (USF) worksheet, which may be found on ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15th** with the Commission and ORS.

4. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory

level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies that occur during non-office hours. FRC shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp) or, alternatively, ORS’s website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representative information has changed.

5. The Company is directed to comply with all rules and regulations of the Commission, unless a regulation is specifically waived by the Commission.

6. FRC also requests that it be exempt from record-keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a carrier not subject to rate base regulation, FRC maintains its book of accounts in accordance with Generally Accepted Accounting Principles. Accordingly, FRC requests an exemption from the USOA requirements. We grant the Company’s request for the reasons stated above.

7. Should the Company become interconnected to the public switched telephone network for the direct provision of local exchange service to South Carolina consumers, it is required to comply with Title 23, Chapter 47, of the South Carolina Code, Annotated, which

governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs FRC to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating, should the Company become interconnected to the public switched telephone network. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, FRC shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

8. The settlement agreement entered into between FRC and ORS is hereby approved.



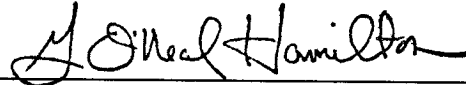
AUGUST 2, 2006

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9. This Order shall remain in full force and effect until further Order of the Commission.


BY ORDER OF THE COMMISSION:



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G. O'Neal Hamilton, Chairman

ATTEST:



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C. Robert Moseley, Vice-Chairman

(SEAL)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2006-42-C**

**April 10, 2006**

RECEIVED  
MAY - 6 PM 4:39  
COMMUNICATIONS

**IN RE:**

**Application of FRC, LLC for a )**  
**Certificate of Public Convenience )**  
**and Necessity to Provide Intrastate )**  
**Telecommunications Services )**  
**As a Carrier's Carrier )**  
**SETTLEMENT AGREEMENT**

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and FRC, LLC ("FRC" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party").

WHEREAS, on January 26, 2006, the Company filed its application requesting a Certificate of Public Convenience and Necessity to provide intrastate telecommunications services as a carrier's carrier via points of presence throughout the State of South Carolina;

WHEREAS, the Company also requested in its application to maintain its financial books and records according to the Generally Accepted Accounting Principles ("GAAP") rather than the Uniform System of Accounts ("USOA") so that it would not have to maintain two sets of books;

WHEREAS, FRC will provide service only to certificated carriers in South Carolina (as opposed to end users) via point-to-point service where facilities are available

**This Document Is An Exact Duplicate, With The Exception Of  
The Form Of The Signature, Of The E-Filed Copy Submitted  
To The Commission In Accordance With Its Electronic Filing  
Instructions**

for the transmission of data signals, using a combination of coaxial, fiber optics and microwave;

WHEREAS, FRC is comprised of two member companies certificated in the State of South Carolina, PalmettoNET, Inc. and SCANA Communications, Inc., with PalmettoNET, Inc. operating as the manager of the Company;

WHEREAS, on February 6, 2006, the Public Service Commission of South Carolina (the "Commission") issued a Notice of Filing and Hearing and set return dates for March 9, 2006 in the above captioned matter, which is scheduled to be heard before a Hearing Examiner on April 10, 2006;

WHEREAS, on March 8, 2006 FRC filed with the Commission Proofs of Publication of Notice in the following newspapers of general circulation: *The Charlotte Observer*, *The Greenville News*, *The (Greenwood) Index-Journal*, *The State*, *The (Charleston) Post and Courier*, and the *(Myrtle Beach) Sun News*;

WHEREAS, no party filed a Petition to Intervene in this matter;

WHEREAS, on March 20, 2005, FRC pre-filed verified testimony of Terry R. Metze, Jr. with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by the Company and its request for a Certificate of Public Convenience and Necessity;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide such services;

WHEREAS, ORS has reviewed the application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by the Company;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, as a result of its review, ORS has determined a) the Company intends to provide intrastate service for interLATA and intraLATA service between two points in the State of South Carolina to certificated carriers in South Carolina; b) the Company will not provide service to end users; c) the Company will provide point-to-point service where facilities are available for the transmission of data signals, using a combination of coaxial, fiber optics and microwave; d) the Company will conduct its operations through its manager, PalmettoNET, Inc. and will use a combination of its own facilities and those of PalmettoNET, Inc. to provide service; e) the managers of PalmettoNET, Inc. possess sufficient technical and managerial abilities to adequately provide the services applied for; f) based upon the information provided and the analysis performed, the Company appears to have the financial resources necessary to provide the services proposed in its application; g) certain revisions have been made to the Company's proposed tariffs in order to comply with Commission statutes and regulations; h) the services provided by the Company will meet the service standards required by the Commission; i) the Company asserts it will provide reliable service, route diversity, and competitive prices to South Carolina telecommunications carriers, thereby ultimately benefiting consumers in South Carolina; and j) the Company offers its services in accordance with individual contracts negotiated with customers pursuant to the terms prescribed in its tariff.

WHEREAS, the Parties have agreed to the following comprehensive settlement of all issues in this docket, and in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

- 1) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed and verified testimony of FRC Witness Terry R. Metze, Jr.;
- 2) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide intrastate telecommunications services as a carrier's carrier within the State of South Carolina;
- 3) ORS does not oppose the Company's request for waiver of any Commission rules or policies requiring a carrier to maintain its financial records in conformance with the USOA so that the Company can continue to keep its financial books and records according to GAAP;
- 4) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, annual reporting and/or gross receipts reporting and remit fees as applicable and appropriate;
- 5) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (added by Act 175). S.C. Code § 58-4-10(B)(1) through (3) reads in part as follows:

... 'public interest' means a balancing of the following:  
(1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;  
(2) economic development and job attraction and retention in South Carolina; and  
(3) preservation of the financial integrity of the State's public utilities and continued investment in and

maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

6) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein;

7) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation;

8) This Settlement Agreement shall be interpreted according to South Carolina law;

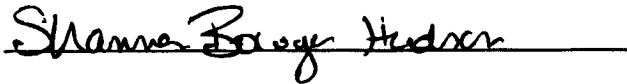
9) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his

or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

[SIGNATURE PAGES FOLLOW]

WE AGREE:

**Representing the Office of Regulatory Staff**

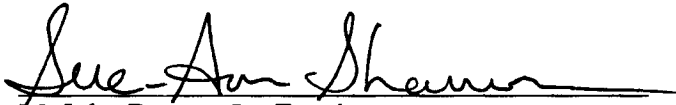
A handwritten signature in black ink, reading "Shannon Bowyer Hudson", is written over a solid horizontal line.

Shannon Bowyer Hudson, Esquire  
Office of Regulatory Staff  
Post Office Box 11263  
1441 Main Street (Suite 300)  
Columbia, SC 29211  
Phone: (803) 737-0889  
Fax: (803) 737-0895  
Email: shudson@regstaff.sc.gov



WE AGREE:

**Representing FRC, Incorporated**

A handwritten signature in black ink, reading "Sue-Ann Shannon", with a horizontal line drawn underneath the signature.

M. John Bowen, Jr., Esquire

Sue-Ann Gerald Shannon, Esquire

McNair Law Firm, P.A.

Post Office Box 11390

1301 Gervais Street

Columbia, South Carolina 29211

Phone: (803) 799-9800

Fax: (803) 753-3219

Email: SShannon@MCNAIR.NET